

AMENDED IN ASSEMBLY JUNE 28, 2004
AMENDED IN ASSEMBLY JUNE 15, 2004
AMENDED IN SENATE MAY 24, 2004
AMENDED IN SENATE MAY 13, 2004
AMENDED IN SENATE APRIL 26, 2004
AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1462

Introduced by Senator Kuehl
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Koretz)

February 19, 2004

An act to amend Sections 65352, 65404, 65940, and 65944 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Kuehl. Military readiness activities: special use airspace.

(1) The Planning and Zoning Law requires the planning agency prior to action by a legislative body of a city or county to adopt or substantially amend a general plan, to refer the proposed action to specified entities, including, among other entities, any elementary, high school, or unified school district within the area covered by the proposed action and any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

The bill would include among those entities the branches of the United States Armed Forces when the proposed action lies within 1,000 feet of a military ~~impact zone~~ *installation*, within special use airspace, or beneath a low-level flight path and would require the Governor, on or before January 1, 2005, to develop processes to resolve conflicts between the military, a local *or state* agency, ~~or and~~ a project applicant when the proposed project may have the potential to ~~adversely~~ affect military readiness activities.

(2) The Planning and Zoning Law also requires each state agency and each local agency to compile one or more lists that specify in detail the information required from a project applicant as part of its statement of application for a development project and requires that copies of this information be made available to all project applicants and to any person who requests the information.

The bill would also revise the information required in the application by the project applicant when the proposed project is located within 1,000 feet of a military ~~installation or facility~~, beneath a low-level flight path, or within special use airspace, and would require the public agency to provide a copy of the complete application to any branch of the United States Armed Forces, as specified. The bill would authorize any branch of the United States Armed Forces to request consultation with the public agency ~~or and~~ the project applicant ~~and to discuss the potential alternatives, mitigation measures, and the effects of the proposed project.~~

(3) ~~The bill~~ would provide that the provisions ~~referred to in this paragraph specified in (2) above~~ are not operative until the Department of Defense provides ~~specified~~ electronic maps that identify military installations and special use airspace ~~at a 1:400,000 scale in an electronic format that is acceptable to the Office of Planning and Research~~ and provides other related information. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

The bill would also require the Office of Planning and Research, within 30 days of the receipt of the maps, to notify cities, counties, and cities and counties of the availability of these maps and the descriptions of special use airspace on the Internet.

~~(3)–~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Military installations and their mission are important to the
4 California economy.

5 (2) The military needs military installations, low-level flight
6 paths, and *special use airspace* to train personnel and test weapons
7 systems effectively.

8 (3) The development of civilian land uses may impair the
9 military's ability to train *personnel* and test weapons systems.

10 (4) Creating a process to identify and assist in resolving
11 potential conflicts between land uses and the military's need for
12 military installations, low-level flight paths, and special use
13 airspace is essential to California's public health, safety, and
14 welfare.

15 (b) Accordingly, the Legislature finds and declares that it is the
16 policy of the state to cooperate with the military to do all of the
17 following:

18 (1) Consider the effects of civilian land uses that may be
19 incompatible with the military's use of its assets.

20 (2) Create processes to resolve conflicts between civilian land
21 uses and the military's use of its assets.

22 SEC. 2. Section 65352 of the Government Code is amended
23 to read:

24 65352. (a) Prior to action by a legislative body to adopt or
25 substantially amend a general plan, the planning agency shall refer
26 the proposed action to all of the following entities:

27 (1) Any city or county, within or abutting the area covered by
28 the proposal, and any special district that may be significantly
29 affected by the proposed action, as determined by the planning
30 agency.

1 (2) Any elementary, high school, or unified school district
2 within the area covered by the proposed action.

3 (3) The local agency formation commission.

4 (4) Any areawide planning agency whose operations may be
5 significantly affected by the proposed action, as determined by the
6 planning agency.

7 (5) Any federal agency if its operations or lands within its
8 jurisdiction may be significantly affected by the proposed action,
9 as determined by the planning agency.

10 ~~(6) When the proposed action lies within special use airspace,~~
11 ~~beneath a low-level flight path, or within 1,000 feet of a military~~
12 ~~impact zone as defined in Section 21098 of the Public Resources~~
13 ~~Code, the branches of the United States Armed Forces that have~~
14 ~~provided the Office of Planning and Research with a California~~
15 ~~mailing address pursuant to subdivision (d) of Section 65944.~~

16 *(6) The branches of the United States Armed Forces that have*
17 *provided the Office of Planning and Research with a California*
18 *mailing address pursuant to subdivision (d) of Section 65944 when*
19 *the proposed action is within 1,000 feet of a military installation,*
20 *or lies within special use airspace, or beneath a low-level flight*
21 *path, as defined in Section 21098 of the Public Resources Code,*
22 *provided that the United States Department of Defense provides*
23 *electronic maps of low-level flight paths, special use airspace, and*
24 *military installations at a scale and in an electronic format that is*
25 *acceptable to the Office of Planning and Research.*

26 (7) Any public water system, as defined in Section 116275 of
27 the Health and Safety Code, with 3,000 or more service
28 connections, that serves water to customers within the area
29 covered by the proposal. The public water system shall have at
30 least 45 days to comment on the proposed plan, in accordance with
31 subdivision (b), and to provide the planning agency with the
32 information set forth in Section 65352.5.

33 (8) The Bay Area Air Quality Management District for a
34 proposed action within the boundaries of the district.

35 (b) Each entity receiving a proposed general plan or
36 amendment of a general plan pursuant to this section shall have 45
37 days from the date the referring agency mails it or delivers it in
38 which to comment unless a longer period is specified by the
39 planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 3. Section 65404 of the Government Code is amended to read:

65404. (a) On or before January 1, 2005, the Governor shall develop processes to do all of the following:

(1) Resolve conflicting requirements of two or more state agencies for a local plan, permit, or development project.

(2) Resolve conflicts between state functional plans.

(3) Resolve conflicts between state infrastructure projects.

(4) Provide, to the extent permitted under federal law, for the availability of mediation between a branch of the United States Armed Forces, a local agency, and a project applicant, in circumstances where a conflict arises between a proposed land use within special use airspace or *beneath* low-level flight paths, or within ~~1000~~ 1,000 feet of a military installation.

(b) The process may be requested by a local agency, project applicant, or one or more state agencies. The mediation process identified in paragraph (4) of subdivision (a) may also be requested by a branch of the United States Armed Forces.

SEC. 4. Section 65940 of the Government Code is amended to read:

65940. (a) Each state agency and each local agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. *Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.*

(b) The list of information required from any applicant shall include identification of whether the proposed project is located within 1,000 feet of a military ~~facility~~ *installation*, beneath a low-level flight path or within special use ~~air-space~~ *airspace* as

1 defined in Section 21098 of the Public Resources Code, and within
2 an urbanized area as defined in Section 65944.

3 ~~(e) A city, county, or city and county that is not entirely beneath~~
4 ~~a low-level flight path or whose entire jurisdiction is within an~~
5 ~~urbanized area as defined in Section 65944 is not required to~~
6 ~~identify whether a project is within a low-level flight path. Copies~~
7 ~~of the information, including the statement of application required~~
8 ~~by Section 65942, shall be made available to all applicants for~~
9 ~~development projects and to any person who requests the~~
10 ~~information.~~

11 *(c) (1) A city, county, or city and county that is not entirely*
12 *beneath a low-level flight path or not entirely within special use*
13 *airspace and does not contain a military installation is not*
14 *required to change its list of information required from applicants*
15 *to comply with subdivision (b).*

16 *(2) A city, county, or city and county that is entirely urbanized,*
17 *as defined in subdivision (e) of Section 65944, with the exception*
18 *of a jurisdiction that contains a military installation, is not*
19 *required to change its list of information required from applicants*
20 *to comply with subdivision (b).*

21 (d) A city, county, or city and county shall not require a project
22 applicant to comply with the special use airspace provisions of
23 subdivision (b) if the entire jurisdiction is within an urbanized area
24 as defined in subdivision (e) of Section 65944.

25 (e) A city, county, or city and county shall not require a project
26 applicant to comply with the special use airspace provisions of
27 subdivision (b) if the project is proposed entirely within an
28 unincorporated area defined as an urbanized area pursuant to
29 subdivision (e) of Section 65944.

30 (f) (1) Subdivision (b) ~~of this section~~ as it relates to special use
31 airspace and urbanized areas shall not be operative until the United
32 States Department of Defense provides electronic maps of
33 low-level flight paths and military installations ~~at a scale of~~
34 ~~1:400,000~~ *in an electronic format that is acceptable to the Office*
35 *of Planning and Research* that are available on a single Web site
36 that is accessible to the public. Additionally, the format in which
37 the maps are presented by the Department of Defense must be able
38 to be linked by the Office of Planning and Research to a Web site.
39 The maps shall clearly identify sections, townships, and ranges.
40 ~~The Web site shall also provide metes and bounds descriptions of~~

~~low-level flight paths.~~ A city, county, city and county, *state* agency, or a project applicant shall base its notice that is required by this section only on the information available on the Office of Planning and Research Web site *as of the date that the notice is required.*

(2) Within 30 days of receipt of the maps, the Office of Planning and Research shall notify cities, counties, and cities and counties of the availability of these maps as well as the availability of the descriptions of special use airspace on the Internet.

SEC. 5. Section 65944 of the Government Code is amended to read:

65944. (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.

(c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) After a public agency accepts an application as complete, and if the project applicant has identified that the proposed project is located within 1,000 feet of a military ~~facility~~ *installation* or within special use airspace or beneath a low-level flight path in accordance with Section 65940, the public agency shall provide a copy of the complete application to any branch of the United States Armed Forces that has provided the Office of Planning and Research with a single California mailing address within the state for the delivery of a copy of these applications, *provided that the United States Department of Defense has provided electronic*

1 *maps of low-level flight paths, special use airspace, and military*
2 *installations at a scale and in an electronic format that is*
3 *acceptable to the Office of Planning and Research.*

4 (e) Except for a project within 1,000 feet of a military
5 installation ~~or facility~~, the public agency is not required to provide
6 a copy of the application if the project is located entirely in an
7 “urbanized area.” An urbanized area is any urban location that
8 meets the definition used by the United State Department of
9 Commerce’s Bureau of Census for “urban” and includes locations
10 with core census block groups containing at least 1,000 people per
11 square mile and surrounding census block groups containing at
12 least 500 people per square mile.

13 (f) Upon receipt of a copy of the application as required in
14 subdivision (d), any branch of the United States Armed Forces
15 ~~may request consultation with the public agency or the project~~
16 ~~applicant to discuss the potential adverse effects of the proposed~~
17 *may request consultation with the public agency and the project*
18 *applicant to discuss the potential alternatives, mitigation*
19 *measures, and the effects of the proposed project on—military*
20 ~~facilities~~, military installations, low-level flight paths, or special
21 use airspace.

22 (g) (1) Subdivisions (d), (e), and (f) ~~of this section~~ as these
23 relate to special use airspace and urbanized areas shall not be
24 operative until the United States Department of Defense provides
25 electronic maps of low-level flight paths and military installations
26 ~~at a scale of 1:400,000 in an electronic format that is acceptable~~
27 *to the Office of Planning and Research* that are available on a
28 single ~~Department of Defense~~ Web site that is accessible to the
29 public. The maps shall clearly identify sections, townships, and
30 ranges. ~~The Web site shall also provide metes and bounds~~
31 ~~descriptions of low-level flight paths. Additionally, the format in~~
32 ~~which the maps are presented by the Department of Defense must~~
33 ~~be able to be linked by the Office of Planning and Research to a~~
34 ~~Web site. The maps shall be at a scale in an electronic format that~~
35 *is acceptable to the Office of Planning and Research.*

36 (2) Within 30 days of receipt of the maps, the Office of
37 Planning and Research shall notify cities, counties, and cities and
38 counties of the availability of these maps as well as the availability
39 of the descriptions of special use airspace on the Internet.

1 SEC. 6. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act, within the meaning of
6 Section 17556 of the Government Code.

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